

UNITED STATES DISTRICT COURT  
DISTRICT OF NEW JERSEY

DAISY MONTICH, individually and on behalf of all  
others similarly situated,

Plaintiff,

-against-

MIELE USA, INC.,

Defendant.

Civil Action No. 3:11-cv-02725-  
FLW-DEA

**DECLARATION OF ROLAND WEINGARTNER IN SUPPORT  
OF MOTION BY DEFENDANT MIELE USA, INC. TO DISMISS  
PLAINTIFF'S AMENDED PUTATIVE CLASS ACTION COMPLAINT**

ROLAND WEINGARTNER, hereby declares, pursuant to 28 U.S.C. § 1746, as follows:

1. I am the Vice President of Technical Service for Miele USA, Inc. ("Miele"). I have held this position since approximately June 1, 2010.
2. I submit this declaration in support of Miele's Motion to Dismiss Plaintiff's Amended Putative Class Action Complaint.
3. I have reviewed the Amended Complaint filed in this action.
4. Plaintiff alleges that she purchased a Miele front load washing machine "on or about July 27, 2007." (Amended Complaint ¶ 6.) Plaintiff also alleges that Miele provided an express warranty with its front load washing machines. (Amended Complaint ¶ 10.)
5. Attached to this Declaration as Exhibit A is the Miele warranty that was provided to customers who purchased a Miele front load washing machine on or about July 27, 2007. I

retrieved this document from Miele's files, where it is maintained in the ordinary course of business.

6. Plaintiff alleges that "starting around the summer of 2008 she began experiencing problems with her Miele washing machine, specifically the machine began to have a mildew/mold odor" (amended complaint ¶ 20), and that she contacted Miele "about this problem." (Amended Complaint ¶ 22.) Plaintiff also alleges that Miele "sent her a Descaler to run in the machine on an empty cycle to allegedly remediate the mold/mildew problem." (Amended Complaint ¶ 22.)

7. Attached to this Declaration as Exhibit B are the screen prints of the service history for Plaintiff's washing machine. I retrieved these screen prints from Miele's files, where they are maintained in the ordinary course of business.

8. The screen prints show: 1) an overview, 2) a service order executed on October 28, 2010, 3) a completed telephone inquiry received from the customer on April 7, 2011, and 4) another completed telephone inquiry received from the customer on April 15, 2011.

I declare under penalty of perjury that the foregoing is true and correct.

Executed: Princeton, New Jersey  
June 8, 2012

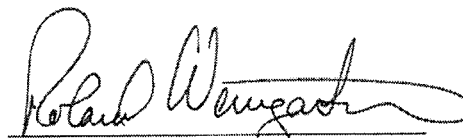
  
Roland Weingartner

EXHIBIT A

## **LIMITED WARRANTY - RESIDENTIAL APPLIANCES USA**

### **Limited Warranty For Residential Appliances**

#### **What the Warranty covers and for what period the coverage extends**

Miele Inc. (hereinafter "Miele") warrants to the original purchaser of this product, living in the United States of America or Puerto Rico, who purchased their appliance from a Miele authorized distributor or dealer:

- a. that this product, including all of its Miele authorized accessories, is free of defects in material and workmanship.
- b. that this product, if found to be defective within the stated warranty period, will be repaired free of charge to the consumer (both parts and labor) by an authorized Miele service agent, provided the failure is reported directly to Miele.

The warranty period is one (1) year from the date of purchase. The warranty period will be extended an additional one (1) year if the product is properly installed and registered by an authorized Miele installer.

Residential appliances used for commercial purposes shall be warranted for a period of six (6) months from the date of purchase. Thereafter this Limited Warranty shall be null and void.

This warranty is only applicable while the product remains within the United States or Puerto Rico, and shall be null and void in any other US territories, possessions, or foreign countries.

#### **What is not covered by this Warranty**

This warranty does not cover damage or defects caused by or resulting from repairs, service or alterations to the product or any of its parts or accessories which have been performed by service centers or repairmen not authorized by Miele, or damage or defects caused by negligence, improper installation, accident, abuse, misuse, or improper maintenance of the product, its parts or accessories. Ordinary wear and tear shall not be considered a defect in materials or workmanship.

#### **Exclusion of Other Warranties**

Except for the limited warranty provided herein, Miele disclaims any and all other express warranties with respect to the product. Any warranty of merchantability or fitness for a particular purpose is limited in its duration to the term of the limited warranty provided herein.

Some states do not allow limitations on how long an implied warranty lasts, so the above limitation may not apply to you.

#### **Limitation of Liability for Special, Incidental or Consequential Damages**

Miele specifically disclaims any and all liability, whether directly or by way of indemnity, for special incidental, consequential or other damages, whether based on breach of contract, tort, strict or product liability, or any other legal theory.

Some states do not allow the exclusion or limitation of incidental or consequential damages, so the above limitation may not apply to you.

#### **Special State Laws**

This Limited Warranty gives you specific legal rights; you may have other rights, which vary, from state to state.

#### **Service**

For service under this Limited Warranty, or for information you may need about the product, please contact Miele at the US address listed on the back of this booklet, or visit us at [www.miele.com](http://www.miele.com).

#### **Authorized Miele Dealers**

To find an authorized Miele dealer in your area, please visit our website [www.miele.com](http://www.miele.com).

#### **MieleCare Extended Service Contracts**

Please visit [www.store.miele.com](http://www.store.miele.com).

EXHIBIT B

AMS - usawelr @ sys68.gtpkap68.derniele.net - [Orders]

File Edit Object View Filter Options Window Help

Mail: US (no filter active)

OrderNu... 6800000... tran... no... SR-Suman Montich

Overview | Order Items | Service Items | Roles | Log/Attachments | History | Errorlist | Checklists | Qualification | Tasks

Status: transferred | -

in Equipment(1) - 11484001USA W4840 LC Washer

Product/Order	Typ	Date	Status
W4840 LC Washer		7/3/2007	
68000000020526(1)	Service Or...	10/28/2010	transferred
68000000060722(1)	Enquiry Or...	4/7/2011	completed
68000000062830(1)	Enquiry Or...	4/15/2011	completed
68CP0000002511	Residential	6/2/2011	processed

Product (No / No2)	Description	type / group	serialno. / purchase date	equipment price	guarantee period	Period	Owner
11484001USA / W4840	W4840 LC Washer	- / Washing machines	85458327 - 7/3/2007	-	-	10/28/2010 - open	CustNo. M3108133991 Montich, Daisy 4726 Deelane St - 90503-2020 Torrance

Checklist Log Print

in Equipment(1) - 11484001USA W4840 LC Washer		Print
Product/Order		Checklist
W4840 LC Washer 854...		Log
Type	Date	Status
680000000020526(1)	7/3/2007	transle...
680000000060722(1)	4/7/2011	comple...
680000000062830(1)	4/15/2011	comple...
68CP0000002511	6/2/2011	proces...

<b>Order</b> Type / OrdNo / ExtOrdNo Status / MatStat / InvStatus InvType / InvSubType / Price Created / Closed / InvDate InvNo / InvNoRef / OrdNoRef	Service Order / 680000000020526 / - transferred / - / open 4 - To be invoiced / 0001 - Repair / 0.00 USD 10/28/2010 / - / - 6800020506 / - / -
<b>Next activity</b> Mobile User	SB - Waiting for execution / wait for reply
<b>Error Description</b> Sym1 Sym2 FaultCode Condition Add. Info	1 - Function 6 - No water intake F63 - Water path control unit fault faults at rinse
<b>Product</b> ArtNo / ModelNo ModeDesc Rem PGrp / PTtype SerialNo Purchase	11484001USA / W4840 W4840 LC Washer W4840 LC WASHER Washing machines / - 85458327 7/3/2007
<b>Activities completed</b> <b>Engineer</b> name / User Order start date / transferred	Jesse Bean / SP00104 10/28/2010 / -
<b>respond code</b> Follow Up/Description Follow Up 2/Reason	- -
<b>Technician's Comments (Internal)</b>	







Overview	Order Items	Service Items	Roles	Log/Attachments	History	Errorlist	Checklists	Qualification	Tasks																								
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<p>Customer called stating that he was sent dishwasher cleaner instead of washer cleaner. Sending correct product, f.o.c. as courtesy, on asw order #4195005.</p>																																	
<p>1 - Function</p> <p>X - Other functional failure</p>																																	
<p>Print</p>																																	

Overview

Order Items

Service Items

Roles

Log/Attachments

History

Errorlist

Checklists

Qualification

Tasks

In

Equipment(1) - 11484001USA W4840 LC Washer

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▼

Checklist

Log

Print

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Contacts

Contact Type / Type

Contact Number / Status

Complaint Overview and Resolution

Closure Time / Time of acceptance

Last contact / initiates

Follow Up

Reasons for contact

Residential / Created by Other

68CP0000002511 / processed

Handle Normally. Please notify Roland or Charles after service call is scheduled or problem has been resolved.

- / 6/2/2011

6/2/2011 / follow-up action changed

Information Request / Processed

Field Service / Customer Unhappy With Repair

Overview	Order Items	Service Items	Roles	Log/Attachments	History	Enrolist	Checklists	Qualification	Tasks
In...	Equipment(1) - 11484001USA W4840 LC Washer								
Product/Order	W4840 LC Washer 854...	Type	Date	Status					
	6800000002052811	Service Order	7/3/2007	transf...					
	6800000006072211	Enquiry Order	4/7/2011	comple...					
	6800000006263011	Enquiry Order	4/15/2011	comple...					
	68000000010553711	Service Order	9/21/2011	open...					
	6800000002511	Residential	6/2/2011	proces...					
<div> <div> <div>Order</div> <div> Type / OrderNo / ExclOrderNo  Status / MailStat / InvStatus  InvType / InvSubType / Price  Created / Closed / InvDate  InvNo / InvRef / DidNotRef  Next activity  Mobile User  Error Description  Sym1  Sym2  FaultCode  Condition  Add. Info </div> </div> <div> <div>Product</div> <div> ArtNo / ModelNo  ModelDesc  Rem  PGrp / PT type  SerialNo  PurchDate  Activities completed </div> </div> <div> <div>Service Items</div> <div> TRIP CHARGE Trip Charge - Residential  06642233 WATER PATH CONTROL UNIT  06921592 Power-/Control unit  Order / userdel  10/3/2011 / 10/3/2011  none / - </div> </div> <div> <div>Engineer</div> <div> name / User  Order start date / transferred  respond code  Follow Up/Description  Follow Up 2/Reason  Technician's Comments (Internal)  Actions (realized)  M1  Engineer  name / User </div> </div> </div>									
<div> <div> <div>Service Order / 6800000105537 / - completed / booked / Invoice sent to IRS 4 - Billable Call / 0001 - Repair / 175.00 USD 9/21/2011 / 10/3/2011 / 10/4/2011 6800105532 / - / - none / - 1 - Function 1 - No Function Customer is reporting that she is getting a technical fault error mid cycle, she would like a tech to hook up MDU and run cycle and see what is going on with the machine. *** Customer is aware that call is billable** 11484001USA / W4840 W4840 LC Washer Washing machines / - 85458327 7/3/2007 9/22/11 usacoder cond.1 customer stated that he repeatedly gets the f63 fault, after inspecting appliance parts were ordered I will return when I have parts. 10/3/11 usacoder I returned with parts and replaced waterpath control unit and power electronic also ran a cycle and no faults. TRIP CHARGE Trip Charge - Residential 1 175.00 [4 - Billable Call / 0001 - Repair] 06642233 WATER PATH CONTROL UNIT 1 174.30 [1 - Goodwill / 0001 - Service] 06921592 Power-/Control unit 1 616.64 [1 - Goodwill / 0001 - Service] Order / userdel 10/3/2011 / 10/3/2011 none / - / / Commissioning Fault / Maintenance / Repaired, Spares Filled / Order / userdel </div> </div> </div>									

Print

Log

Checklist